UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

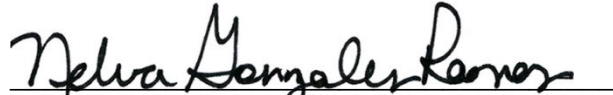|		
UNITED STATES OF AMERICA,	§	
	§	
VS.	§	CRIMINAL ACTION NO. 2:14-CR-96
	§	
ABEL LOPEZ, *et al*,	§	
	§	
Defendants.	§	

ORDER

On June 7, 2016, the Clerk received Defendant/Movant Abel Lopez's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. D.E. 207. Two months earlier, Movant appealed the Court's Amended Judgment (D.E. 165), and his appeal is still pending before the Fifth Circuit. *See* D.E. 204. "It is a jurisdictional requirement of § 2255 that the conviction and sentence being challenged are final." *United States v. Clark*, 816 F.3d 350, 362 (5th Cir. 2016) (citing *Jones v. United States*, 453 F.2d 351, 352 (5th Cir. 1972) (per curiam) (holding that collateral attack under § 2255 was premature where direct appeal of defendant's conviction was still pending)). Once Movant's appeal is complete, he may seek relief through a motion under § 2255.

Movant has also filed a letter motion seeking counsel to assist him with his § 2255 motion (D.E. 207). A § 2255 movant is not automatically entitled to appointed counsel. *See United States v. Vasquez*, 7 F.3d 81, 83 (5th Cir. 1993); *see also Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) ("We have never held that prisoners have a constitutional right to counsel when mounting collateral attacks upon their convictions.

Our cases establish that the right to appointed counsel extends to the first appeal of right, and no further.") (internal citations omitted).

For the reasons set forth above, Movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (D.E. 207) is **DISMISSED** without prejudice to refiling once Movant's appeal is complete. His motion for appointment of counsel (D.E. 208) is further **DENIED**.

ORDERED this 10th day of June, 2016.

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NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE